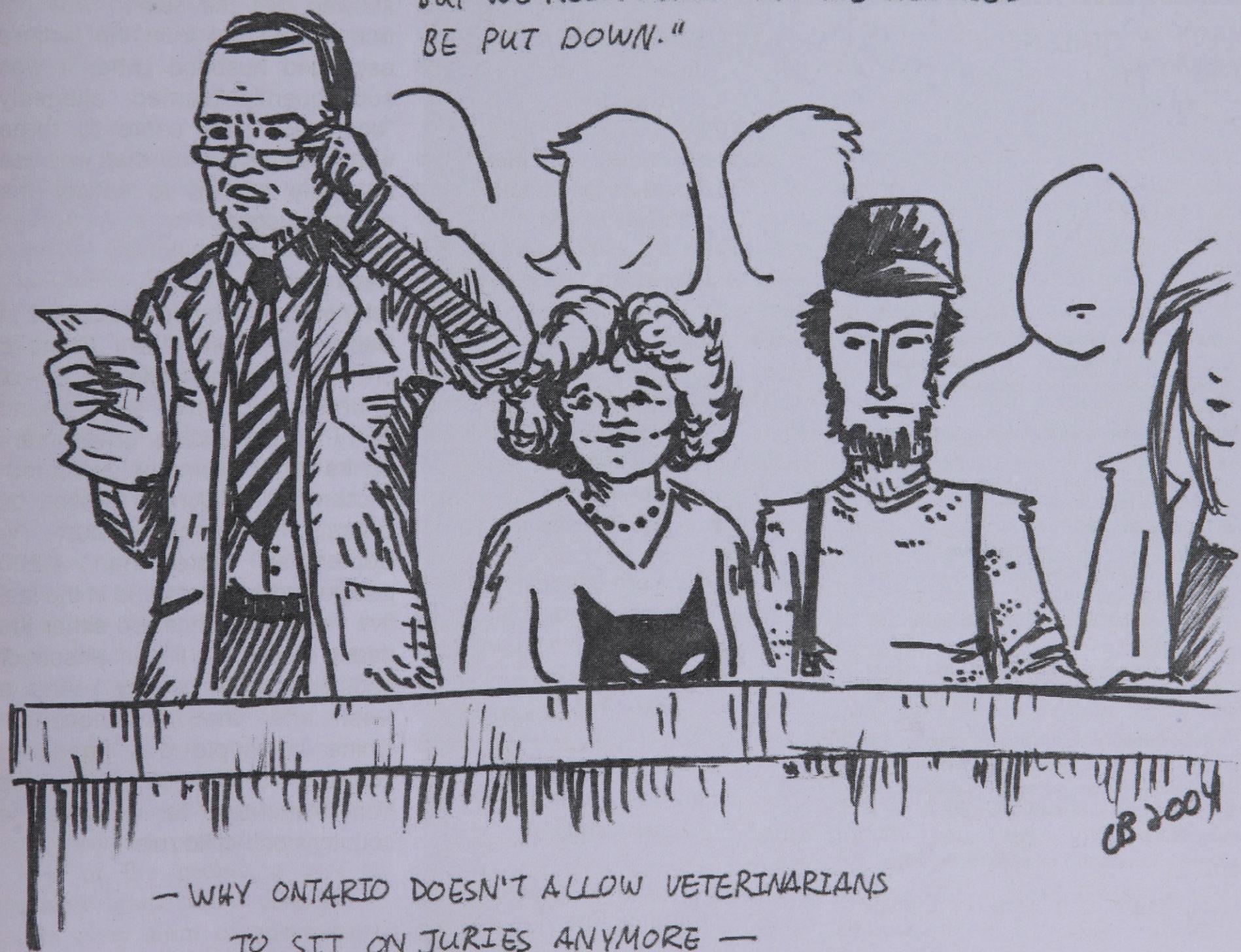


# Quid Novi

McGill University, Faculty of Law  
Volume 25, no. 10 - November 9, 2004

"WE COULDN'T REACH A UNANIMOUS VERDICT,  
BUT WE RECOMMEND THAT THE ACCUSED  
BE PUT DOWN."



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Contributions should preferably be submitted as a .doc attachment. All anonymous submissions will be rejected.

## Week in Review...

### Judges and DNA

In an October decision, the U.S. Court of Appeals for the 6th Circuit voted, not only to affirm Paul Gregory House's 1986 rape-murder conviction but also to keep him on Tennessee's death row, despite subsequent knowledge that the prosecutor's primary evidence was faulty. The eight judges accepted the conviction, even though the rape evidence was based, nearly archaically, on a match of blood "type" in semen found on the victim; much more sophisticated DNA testing later showed that the semen was not from House but from the victim's estranged husband (who, it was subsequently learned, allegedly "confessed" the crime to three witnesses, evidence that was too belatedly offered to satisfy the majority judges).

### Hard Justice

After trials in two separate cases in September (in the Chinese province of Henan and the city of Zhuhau), four men were found guilty of defrauding government banks and promptly executed. (According to figures released by China's Supreme Court in September, more than 4,200 people convicted of fraud in the last five years have received either the death penalty or life in prison or another "heavy penalty.") And a week after that, in Shenzhen, China, a couple was fined the equivalent of \$94,000 and ejected from their home for violating the country's one-child rule.

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# Editor's Page: Law and Disorder

by Aram Ryu, Co-Editor-in-Chief (Law III)

**A**nother US election has come and gone. Unlike the last one fueled by partisanship and legal actions, this one was fairly calm as the result was clear that Kerry lost, and for the first time, George W. Bush has a legitimate presidency not awarded by the Supreme Court, but willingly chosen by 51% of the population. However, this process has also shown why democracy doesn't work and it is time to rethink what it is supposed to be.

On November 2nd, American voters did not only choose their next president but they also voted on controversial issues through referenda. Except for California (which voted to allow public funding for stem-cell research), same-sex marriage was on the ballot in 11 states (Arkansas, Georgia, Kentucky, Michigan, Mississippi, Montana, North Dakota, Ohio, Oklahoma, Oregon, Utah) and all 11 states voted to enact a constitutional ban on gay marriage in their states. It is the will of the people - more specifically, the will of some people whose group happens to be majoritarian. However, the will of the people must be ignored in some situations in order to provide justice to everyone. In fact, the will of the people must be always ignored in order for a democracy to succeed. Rule of Law dictates that citizens be completely and utterly ignored to protect them.

Will of the people is not an inherently democratic concept: it renders every form of governments legitimate, whether it is a non-representative democracy like the

United States, parliamentary socialist monarchism like Canada or communist Soviet Union. It is however necessary for the will of the people to disappear from modern democracies in favour of judicial control. This does not necessarily mean judicial activism: the judiciary is the only institution capable of deciding on matters not entirely based on morality. In the US elections, a lot of voters admitted they voted according to their morality and religion.

It is perhaps appropriate to understand what religion governs our neighbours. Most of the people who voted for Bush in the Red(neck) states are fundamentalists Christians. Are they any better than fundamentalists Muslims? Perhaps, but I'm not entirely convinced. This ultra-conservative fear mongering mistaken group of people invokes the Bible as the rule of law that should govern the society. George W. Bush is among the fundamentalists and he is once again pushing for a federal ban on gay marriage and other forms of living arrangements/legal protections that go against the traditional definition of marriage. Who knows, soon enough they'll argue that union between a white man and a black woman is immoral. Actually, they already argue that and they have done so before...

Religious fundamentalist fanatics are insecure in their way of life: that is one of the reasons why they turn to their religion for protection. It is indeed hard to even label them Christians, since they ignore the basic

rule of "loving thy neighbours as thyself". They seem to follow a rule of "loving thy neighbours as long as thy art white, straight, gun owners. Others should burn in hell and maybe shot on sight". And because of their religious beliefs inserted in their brain by their cult leaders, governments should write discrimination into the state constitutions?

Red states have shown the world that democracy can no longer protect everyone's rights and freedoms. In Canada, Saskatchewan became the seventh province to legalize same-sex marriage: would we have gotten the same results if that question was left up to the people in a referendum? Will of the people is to protect the majority's interest and view of the world. Just as southern states' will was to keep slavery, courts have ruled against the will because they are ultimately not accountable to the people. Some have argued, on both sides of the border, that the judiciary should be subject to control in order to protect discrimination and bigotry by the majoritarian group. It is certainly an appealing argument to some, but the more we subject the judiciary to popular control, the farther it goes away from what a modern democracy should be.

Maybe reelecting Bush would bring forth the end of the world as written in the Bible, maybe it won't... but the American ultra-conservatism needs to be controlled by an independent judiciary, something that doesn't seem to exist in the United States... ■

# CEGEP Students In Deep Conversation

by Sabrina DiGiambattista law IV & Ayman Daher law IV

**A**yman: Hey Sabrina! Did you read that article in the Quid from that 1st year who made it straight out of GEGEP?

Sabrina: Yeah, like... what was her name.. Hinda Rabkin?... I totally connected with what she was saying... it was totally deep, you know...

A: I know, it was as if she was speaking directly about me, intense...

S: Yeah, it was the only article I could understand though...

A: Tell me about it... all these grad students writing about topics that go miles above my head. Did you get the first piece about death and boredom?

S: Yeah... like... what the hell is that, I can't understand a word of Jason's writing anyway, let alone understand a metafairy like that..

A: I think it's called a metaphor Sabrina... hello...

S: Whatever...like... I didn't get the Wal-Mart one either, was that a commercial?

A: Yeah I think so... man, those American companies are really... like... bad. I hate Wal-Mart... they don't even sell N'Sync t-shirts now...

S: I know! I tried to get my weekly fix, and they said they don't carry them anymore... Anyway, I wouldn't be caught dead there... I mean, I have a status to maintain, I can't be seen shopping there.

A: Uhh... Hello, I saw you at Winners the other day...

S: Shut up! People here can't hear you say that... Looking this good is sooo expensive. Why do you think I even made into this place, it's not like I deserve being here.

A: I know what you mean, I had to

sleep with Saumier during the CEGEP interviews. No wonder Lametti gave me a bad grade for Civil Law property.

S: Enough talking about serious things... did you read the paper today?

A: Like... the Globe and Mail?

S: HAHAHAHAHA... no silly, the Gazette comics section.

A: Of course... that Garfield, he cracks me up...

S: There too much poli... poli... poli-ti-cal... humour in there now though... apparently there was some sort of election in the States last week.

A: I know, I never understand that Doonesbury comic, I think I'd need a political science degree to get that one...

S: I wonder what I could do with a political science degree...like become all knowledgeable, and be able to talk with other beings about snooty... subjects, maybe I could make it into law some day\*.

A: Sabrina, you're already in law...

S: Oh! Hihi... silly me, I forgot...

A: Speaking of comics, did you get the cover of the quid, with those people on a bench and reading... hellooooo... boooooring!

S: Well I think it was an insightful commentary on the issue of public access to personal information by contrasting modern internet behaviour and the World War II British propaganda that tried to warn citizens about espionage. It was quite humorous.

A: Huh...

S: Oh I just heard some other student saying that and I... like... thought it sounded smart.. hihi...

A: You scared me there Sabrina.. don't do that again.. If you become too smart, who will I talk to over here?

S: There are plenty of other CEGEP students...

A: Yeah but all the francophone ones are.. like.. super geniuses... man its unfair..

S: Ayman... you are francophone...

A: Really? Ah ben oui.. calisse... j'avais oublié...

S : Anyway.. back to that cover.. you think that we could understand it if we were born prior to 1930, or whenever WWII was...

A: Umm... the students with B.A's aren't that old...they're more like 40 right?\*\*

S: Really, but they look so... like... you know... geezers...

A: Yeah... like they were probably New Kids on the Block fans... old school.

S: Don't diss New Kid... I was 6 when I fell in love with them...

A: Hey... I played Jordan in a school talent show when I was 7...

S: They're coming out with a new CD... I have to get the t-shirt!

A: Awesome... but anyway.. I gots to run... I'm going to work on my Obligations paper, if you know what I mean...

S: Shut up... you're sleeping with Khoury too!!! ■

\* Send hate mail to [aaron.chase@mail.mcgill.ca](mailto:aaron.chase@mail.mcgill.ca)

\*\* That's [aaron.chase@mail.mcgill.ca](mailto:aaron.chase@mail.mcgill.ca)

# News Item: Chase: Declares Himself Faculty's Most Desirable Male, Again; Mike Brazao, Concerned about Hygiene, Bathes

by Todd Henderson (Law IV)

**M**ONTREAL - After having recently set a new record for opposite-sex face slaps received, McGill Faculty of Law member Aaron Chase wasted little time in declaring himself the faculty's most desirable male, again.

Chase, 31, and a self-described "playa," shook the Faculty of Law nearly two years ago at which time he declared himself the Faculty of Law's most desirable male for the first time. Chase's assertion was not without controversy, however. Future muckraking journalist Erin Singer raised doubts as to the veracity of Chase's claim, pointing out that in order for such a claim to be "not bullshit," figments of Mr. Chase's imagination, telephone sex advertisements taken out of context, and the opinion of Mr. Chase's personal blow-up doll could not be included in the tally for a scientific study designed to measure how many women "want him."

Chase nonetheless maintains the veracity of his most recent claim: "Dude, have you seen my website counter? I'm up to 753 hits from Law Faculty computers alone!" While Chase was unable to corroborate the veracity of this figure, or whether a visit to the website necessarily points to the desirability of Aaron Chase in the mind of the visitor, members of the faculty were quick to point to differing motives behind Chase's recent declaration.

"He's outta here in December, and he knows he's headed for the dustbin

of Law Faculty obscurity, just like Alumni Quid (Novi) contributors," said Mike Brazao, Law IV.

(Aaron Chase's website may be accessed at the following address: <http://www.chasethechase.com/faculty'smostdesirablemale>)

## Mike Brazao Reported to Have Showered

MONTREAL - Mike Brazao, 25, is reported to have taken a shower over the Hallowe'en weekend amidst recent criticism that his lack of personal hygiene was contributing to global warming and other forms of air pollution.

A press release from Environment Canada reported a significant reduction in air pollution in the greater Montreal area following Brazao's sudden relapse from his former practice of very infrequent bathing, summed up in Brazao's personal credo of "No Showa, Mo' Powa!"

The official Opposition was quick to raise the occurrence in the House of Commons. Addressing the House, Conservative Party leader Stephen Harper commended Brazao on his newfound commitment to environmentalism.

"The Conservative Party unequivocally supports Brazao's commitment to hygiene," stated Harper. The leader of the Opposition did not hesitate to use Brazao's bathing for political ends, calling the shower a "made-in-Canada approach"

to emissions reduction.

Closer to home, political reaction was positive yet guarded. Responding to questions in Quebec City, Quebec Premier Jean Charest congratulated Brazao on his recent decision to bathe. The Premier was however reminded of a statement from the Office of the Prime Minister earlier this month which many feel was implicitly directed to Brazao. In the statement, the Premier called for a greater commitment to the environment on behalf of all Quebecers, noting "cisse que ça pue le torontois!" (Jesus Christ does that guy from Toronto ever stink!). Charest, however, refused to distance himself from his previous statement in light of recent events.

In response to the interest his douche has created, Brazao delivered a hastily organized press conference from the Ste-Catherine Street Peel Pub lavatories. As a former psychology major, Brazao noted the presence of a full moon during the Hallowe'en weekend and the effect that changes in the lunar phase can have on a man's sense of himself. Brazao also felt that reaction to his recent bath from national and provincial leaders, as well as concerned citizens, was overstated: "For your information, I shower once a year - even if I don't need it." ■

# Les syndicats en politique: La cause de la défaite de John Kerry

par Guillaume Lavoie (Law III)

Cet article fait suite à mon article de l'an passé (pour ceux qui s'en rappelleraient) qui s'intitulait : "Le SPQ Libre : Le dernier monstre syndical". Dans cet article, je soutenais que l'exercice par les syndicats de leur influence et de leur pouvoir afin de faire de la politique active et de faire du lobbyisme pour défendre des politiques de gauche, même si celles-ci n'affectent aucun droit des travailleurs, devrait être limité. J'affirmais notamment :

"Je pense qu'au lieu d'exclure les syndicats de son application, la Loi sur la transparence et l'éthique en matière de lobbyisme devrait au contraire limiter l'exercice politique de ces créatures démocratiques qui ont muté en monstres à la marginalité et s'assurer que leur mandat sera restreint au piquetage, à la grève, aux négociations des conventions collectives et peut-être à un exercice plus restreint de lobbyisme."

Mon analyse se limitait au Québec, et à juste titre, car l'exercice du pouvoir politique par les syndicats, n'a d'égale mesure qu'en France.

Et bien j'affirme maintenant que c'est cette crainte de l'exercice du pouvoir des syndicats qui a participé à la défaite de John Kerry. Les analystes mentionnent comme motifs le fait que les Américains n'aiment pas changer de commandant en chef en pleine guerre, les valeurs religieuses, etc. Et ceux-ci sont manifestement des raisons majeures de la défaite de John Kerry. Mais j'ajoute un motif important : la complicité entre John Kerry et les syndicats est l'un des facteurs majeurs qui lui a fait perdre les élections.

Il y a notamment trois états qui étaient considérés comme "swing-state" et qui ont été perdus de peu par Kerry: le Nevada, le Nouveau-Mexique et la Floride. Ces trois états, si Kerry les avait remportés, auraient été plus que suffisants pour lui assurer la victoire, même sans

l'Ohio. Le sénateur démocrate Zell Miller dirait que Kerry les a perdu parce qu'il ne comprend rien à rien à la mentalité sudiste. Mais je crois que la vérité est toute autre.

Pour ceux qui ne le savent pas, je me trouve en échange au Texas en ce moment, à l'Université de Houston. Et même si le Texas était donné à Bush (qui y a d'ailleurs remporté deux fois plus de voix que Kerry!), la communauté étudiante a généralement tendance à être plutôt pro-Kerry. Une exception surprenante est les étudiants d'origine hispanique. Tous ceux à qui j'ai parlé ici à Houston étaient en faveur de Bush. Ceci est surprenant, considérant que l'on affirmait qu'un taux de participation élevé chez les communautés hispanique et noire permettrait à Kerry de gagner. Les statistiques montrent que la communauté noire a effectivement voté davantage pour Kerry (même si cela ne lui a pas permis d'emporter l'Ohio). Mais la communauté hispanique a été davantage divisée entre les deux candidats. La raison est la suivante (du moins si je me fie aux témoignages que j'ai reçus) : les citoyens américains d'origine mexicaine craignaient que John Kerry, qui a apparemment une excellente complicité avec les syndicats, décide de rendre la frontière entre le Mexique et les Etats-Unis plus étanche afin d'empêcher aux Mexicains de venir prendre des emplois qui pourraient aller à des Américains pour un salaire moindre (notamment du fait que plusieurs prennent ces emplois en tant que travailleurs illégaux) : ce qui déplait grandement aux unions syndicales américaines.

La plupart des américains d'origine hispanique ont soit immigrés aux Etats-Unis pour améliorer leur situation en prenant l'un de ces emplois, soit sont les enfants ou petits-enfants de Mexicains qui ont immigrés pour cette raison et sont

donc manifestement contre une telle politique qui empêcherait à leurs "confrères" de pouvoir tenter de réaliser également le rêve américain. Plusieurs ont donc voté pour Bush craignant l'implantation d'une telle politique. Or, les trois états précédemment nommés sont évidemment les états où la communauté hispanique est surtout présente.

Les démocrates ont tassé Howard Dean parce qu'ils le trouvaient trop à gauche et craignaient que cela ne les empêche de remporter les élections. Ils auraient dû se méfier tout autant de l'impact que pourraient avoir les syndicats qui sont encore plus à gauche qu'Howard Dean et donc les tasser également. Il est vrai que ceux-ci n'ont pas pris une grande place dans les débats et durant la campagne électorale, mais Kerry interrogé sur la question de la frontière pendant le second débat a laissé échappé ses véritables projets (sans mentionner les syndicats : mais il est bien connu que cela vient d'eux).

Donc, même aux Etats-Unis, où l'influence des syndicats et leur participation en politique est négligeable, ou du moins en comparaison avec les églises protestantes, la participation active en politique des syndicats a également eu un effet pervers sur la politique (j'essaie ici de faire un lien bien faible avec mon article précédent, mais réflexion faite le seul véritable lien est que je n'aime pas beaucoup les syndicats : c'est du moins ce qui a motivé les 2 articles en question).

Et pour ceux qui espéraient que Kerry se fasse élire, je vous laisse à cette pensée : les syndicats ont donc fait perdre à Kerry trois "swing states" qui lui auraient assurés la victoire et peuvent donc être considérés comme étant l'une des raisons principales de sa défaite. ■

## DOSSIER DÉBATS FACE-À-FACE...

### Devrait-on permettre le port de symboles religieux dans les institutions d'enseignement ?

#### - P O U R (Robert Boyd – Law II) -

Ma consœur partage sans doute l'idée selon laquelle un système d'éducation accessible à tous constitue le moyen le plus efficace qu'une société puisse se donner afin de former les citoyens de demain. Le fait est que l'école est un puissant canal permettant à l'État de transmettre aux enfants un bagage de connaissances et de valeurs qui feront d'eux des citoyens éveillés et sensibles à la réalité qui les entoure. Afin d'assurer une certaine cohésion sociale, il importe que l'école transmette aux étudiants les valeurs de respect, de tolérance et d'acceptation qui émanent de notre société. Avec respect, la position de ma consœur visant à exclure les symboles religieux des écoles nie ce rôle fondamental de l'éducation qu'est celui de la transmission de nos valeurs communes.

L'acceptation des symboles religieux dans notre société ne saurait être contestée. Celle-ci est étroitement liée au respect que nous accordons à la liberté de religion ainsi qu'à la liberté d'expression. Exclure les symboles religieux des écoles porterait non seulement atteinte à ces libertés fondamentales, mais aurait pour effet de transmettre à nos futurs citoyens un message contradictoire qui donnerait du fil à retordre aux enseignants. En effet, on peut se demander comment un enseignant expliquerait à ses étudiants de l'école primaire : « La société dans laquelle vous grandissez respecte la liberté de religion et accepte la présence des symboles religieux, mais l'école dans laquelle vous êtes présentement ne partage pas ces valeurs et vous interdit d'exercer votre liberté de religion ».

L'idée selon laquelle la religion est une éternelle source de conflits et que les symboles religieux risquent de semer la discorde entre les étudiants doit être rejetée. Face à une problématique, la fuite ou l'évitement ne constitue pas une solution constructive. S'il est vrai que les symboles religieux permettent d'identifier la religion d'un étudiant et peuvent, dans certaines circonstances, faire naître des rivalités entre les étudiants, la solution n'est certes pas d'adopter une attitude hypocrite et xénophobe en interdisant les symboles religieux et en niant une réalité qui ne s'imposerait alors qu'en dehors des murs de l'école. Les enseignants doivent sensibiliser les étudiants à la diversité culturelle et religieuse et la présence des symboles religieux dans les écoles constitue une première occasion pour les étudiants d'apprendre les valeurs de tolérance, de respect et d'acceptation qui nous sont si chères.

#### - C O N T R E (Carolyn Nguyen – Law II) -

Le port des symboles religieux dans les institutions d'enseignement devrait être banni et ce pour le bien-être des étudiants.

Premièrement, certaines gens ont des préjugés malheureux par rapport à une religion ou une autre et les symboles religieux créent une différentiation qui n'est pas nécessaire auprès des étudiants. L'interdiction du port des symboles religieux réduirait la discrimination qu'un étudiant pourrait subir dans son milieu scolaire.

Ensuite, plusieurs conflits dans le monde aujourd'hui ont pour cause la religion et les jeunes ne devraient pas avoir à subir les conséquences de ce que d'autres font au nom de cette dernière. Par exemple, après le 11 septembre, plusieurs élèves musulmans ont été sujets à des insultes et attaques par leurs confrères de classe simplement à cause du lien ridicule que d'autres faisaient entre leurs croyances et les actes de groupes fanatiques. L'abolition des symboles religieux est la solution pour protéger tous les groupes religieux d'étiquetage et d'actes haineux à leur égard.

Enfin, malgré ce que certains pensent, l'interdiction suggérée n'aurait pas pour but de limiter la liberté d'expression ou de religion des jeunes. L'école est un endroit où les élèves devraient avoir la possibilité d'apprendre et de s'épanouir d'une façon objective, sans égard aux courants religieux ou à leurs croyances spirituelles. Dans la salle de classe, tous devraient être mis sur un point d'égalité où seules leurs personnalité et aptitudes sont mises en évidence, sans égard à leur appartenance spirituelle. Tout comme la séparation entre l'État et l'Église, la séparation entre l'Église et les institutions d'apprentissage permettraient un apprentissage objectif et offrirait une protection de plus contre le radicalisme religieux.

Bref, si le port des symboles religieux dans les institutions d'enseignement était banni, les jeunes pourraient enfin bénéficier de ce que l'école a le devoir de leur offrir : un environnement qui les encourage à apprendre et grandir.

**Ces débats vous intéressent ? Inscrivez-vous à la compétition Face -à-Face en envoyant votre nom et celui de votre coéquipier au courriel suivant : [faceafacemcgill@hotmail.com](mailto:faceafacemcgill@hotmail.com) .**

**LA DATE LIMITE D'INSCRIPTION EST LE 29 NOVEMBRE.**

# The Legal World (October)

by Aram Ryu, Co-Editor-in-Chief (Law III)

Here is our monthly collection of legal events around the world. You can always view these on our blog as it is routinely updated with fairly up-to-date news: <http://quidlaw.blogspot.com/>

## No shopping on Sunday...

In order to further promote the stereotypical view that Canadians from the Atlantic provinces are lazy, voters in Nova Scotia have rejected to overturn the year-round ban on Sunday shopping. Citing traditional values, a majority (55%) believe that being different from the rest of North America is good.

All is not lost however: small convenience stores and stores destined for tourists may still remain open for business. The only question is whether North Americans find Nova Scotia different enough to go visit ... or just snub completely.

## Irish gays get lucky?

Perhaps Ireland wants to be as modern as it can, as soon as it can! After legalizing divorce 7 years ago, lawmakers are discussing the need to modernize the country's family law and they're even considering possibility of granting gay couple rights!

Suddenly, the Land of the Free and of Liberty and the Rule of Law seems backward compared to Ireland that is mostly Roman Catholic ...

## European Union sues Greece

Once upon a time, lawmakers in Greece thought banning all forms of electronic games would lower the

gambling rate in the country ... of course, the absurd and broad law was immediately challenged, and now the EU is joining the action claiming that this hinders the "free movement of goods and provision of services."

## *Don't like the election result? Sue the machine!*

In anticipation of all the legal maneuvers by overpaid Democratic and Republican lawyers, a coalition of private citizens in New Jersey is filing a lawsuit to block the use of electronic voting machines citing that they "cannot protect the fundamental right to vote."

Obviously, the alternative would be to go back to the good old days of hanging chads and manual recounts ...

## *Who wants to be bankrupt in China?*

The latest draft of bankruptcy law that was submitted to China's top legislature limits the law's scope. The original draft included partnership businesses and proprietary individual businesses, but it was deemed that the protection would lead to false bankruptcies to avoid debts.

## *Killing a boy with a car is not a murder?*

According to the New York Post, a man who hit a Queens boy, killing him, cannot be charged for murder because the state's vehicular homicide statute is very lax.

In January, Pataki offered legislation to increase penalties for killer drivers, but for an insane reason, the measure died in the legislature.

Currently, even if someone is drunk, the prosecutors need to prove that there was a second factor (violation of any traffic law such as speeding) in order to charge him/her with vehicular manslaughter ...

## *Rehnquist v. Cancer*

It seems not even thyroid cancer can stop Supreme Court Chief Justice Rehnquist! He is expected to preside over a closed-door session of the court next Monday. Will he finally retire after the surgery? He has been on the bench for more than 30 years already!

## *Honour killing now harder*

The Pakistani National Assembly has just passed a law designed to increase the punishment for extreme cases of honour killings, including the death penalty.

Although the death penalty itself might not be humane, at least it will serve as some kind of deterrent to men who might think they can do anything to their female relatives.

## *"Unprecedented financial crisis"*

The Supreme Court of Canada unanimously decided that the Newfoundland government does not have to pay equity payments it deferred in 1991 because "the need to address a fiscal crisis [...] was a pressing and substantial legislative objective."

However, the Court warned that governments who attempt to justify the infringement of the Charter because of budgetary constraints should be met with skepticism. ■

# Computers Can Be Bad for Your Health

by Mariam S. Pal (Law III)

I'm not typing these words that you're reading. Some of them I wrote by hand during a really dull meeting. Then once I get home I put on a headset, activate my voice recognition and start dictating. Presto! The words I'm speaking type themselves onto the screen. I don't type anymore, I dictate. I've learned the hard way that typing is bad for my health. I'm one of those people who were just born with the wrong kind of hands for computer work despite the fact that I used to type like the wind. Now I'm totally recovered from carpal tunnel syndrome on my right hand and have sustained several injuries to my left hand. All as a result of typing.

Before I came to law school I was working, and with the advent of computers before you know it you work in front of a computer all day. Until relatively recently nobody seemed very concerned with ergonomic workstations and so like everybody else where I worked I was in absolutely the wrong position when I typed. Eventually, my body started to give out and I developed tendinitis in my left arm and carpal tunnel in my right arm. Other people I worked with developed back, shoulder and neck problems. We all spent a lot of time in physiotherapy but when we came back to our desks we still sat in front of computers on chairs that were not comfortable and at desks that were not the proper height for computers. My employer said it was too expensive to replace all the furniture so they increased the amount of physiotherapy available. Apparently this was cheaper. I have a friend who works in Silicon Valley where apparently repetitive stress injuries due to working long hours in front of a computer are the local equivalent of SARS. Over there, under California state law, employers are required to make sure that everybody working in front of a computer has an ergonomic work environment.

Sounds pretty good to me!

How should you sit at a computer? You should be sitting up straight in a chair and your knees should form a 90° angle with the floor. Your arms should be straight and relaxed. This web page has an illustration of how you should be sitting: <http://eeshop.unl.edu/rsi.html>. It also has a lot of other useful information for those of you who are interested, and is maintained by somebody in the UK who has had severe carpal tunnel since 1994.

Take a look around one of the classrooms in the law school and I'll bet hardly anybody is sitting properly. Same thing at the library. Sometimes when I sit at the back of one of those big classrooms I look at everybody hunched over their computer sitting on those impossibly uncomfortable chairs and I wonder how many of those people will develop some form of repetitive stress injury. After all, I've learned that you can only subject your body to so much before it protests.

What should you do if you start to develop symptoms of repetitive stress injuries? These usually include stiffness, numbness, loss of motor skills, and pain. Well go see a doctor and better still go and have physiotherapy. The physiotherapists will probably give you some good exercises. I have some I still do every day. If you can, try to stop typing so much. Personally I found it liberating not to be tied to my laptop all the time. My neck and shoulders and back and eyes, not to mention my hands, are grateful for it and because I take my notes by hand perhaps I am more selective. After all, it's the information that counts, isn't it?

You could also try voice recognition. If you use Windows XP then click on the tools menu and check on the box marked "speech." You will probably be prompted to insert one of the installation disks.

Voice recognition takes some practice and some of the words that occasionally show up on the screen are downright hilarious. But for me, compared to the constant pain of typing or the cost of having somebody type my papers for me, using voice recognition has really proved to be wonderful. If you persevere, eventually the system will recognize your voice and you can add words to the vocabulary.

If you must type, at least get yourself one of those wave keyboards. It will force your hands to be in the proper position. And finally, if one hand is worse than the other then one thing you can do is to get a one-handed keyboard. Here is the lead that you can follow to learn more about one-handed keyboards: <http://www.pcguide.com/ref/kb/layout/alphaSingle-c.html>.

Another thing you can do is to install a modified keyboard pattern on your own computer. According to <http://c2.com/cgi/wiki?DvorakKeyboard>, Win2K has it as a standard feature. Microsoft has something to say about it too, at <http://support.microsoft.com/default.aspx?kbid=165486&product=w98>, and seems to provide downloads and everything you'd need to get started.

Computers are great and they've made our lives so much richer and allow us to do amazing summaries. Yes all this is true. But if you're not careful computers can be bad for your health. Armed with a bit of knowledge, most computer users can avoid injuries and if you're unlucky enough to get one I hope this little article gives you a few ideas as to how to cope. Whatever you do, if your hand starts to hurt don't ignore it! ■

# How Eminem Failed to Save the Democracy...

by Kirsten Mercer (Law II)

It has been a long week for me. I have been living in denial since Tuesday, and I think I have finally rounded the corner. It took me a long time to let go, but I think I have finally given up on any prospect that Ohio could somehow save the day for the Democrats. Which is odd, because I don't really like John Kerry. The problem was that about 2 weeks ago I started reading the Blogs. This turned out to be a big problem. Not only did I spend valuable time and energy digesting and internally debating the complex intellectual machinations of someone who was probably sitting on their couch, watching Star Trek re-runs and blogging in their underwear, but I also developed hope. Not really hope FOR the Kerry-Edwards ticket, but rather hope that Bush (as entertaining as his presidency has been) would be defeated.

Sadly, this was not to be... I know that now. My name is Kirsten Mercer... And I no longer believe that the provisional ballots in Ohio will save me from another 4 years of Dubya.

Regardless of the outcome in the allocation of Electoral College votes (the only votes that matter in determining the Presidency) we do know that Bush garnered an unexpected level of support in the popular vote. And while the popular vote has little determinative value in the Electoral College system beyond its ability to bestow legitimacy on an administration, it is useful in the analysis of what the hell happened!

As much as I might believe that voting for Bush is a bad decision, I

think that the worst decision of all is the decision not to show up! I thought that the 2000 election hammered that point home pretty clearly for most Americans, and the voter registration drives and popular hype seemed to suggest that Americans of all political persuasions, colours and classes got the message. Everyone from Oprah to Eminem was doing their part to encourage historically under-represented groups (youth - particularly young women, African Americans, the working class) to register and (we hoped!) vote. These efforts raised hopes that young people in the US would understand that they potentially hold the balance of power in this election, and could essentially pick the next President. If Cosmopolitan had had its way, voting would be the new black!

Some of these efforts were extremely controversial and most were highly partisan. For example, many stations refused to air the recently released Eminem song, Mosh. The Mosh video opens with the children reciting the pledge of allegiance as a plane flies by and crashes (off screen) into a building. It then shows Eminem leading what appears to be some kind of overthrow of the state, with single mothers, young soldiers and black teenagers being compelled by Bush's policies to don black hooded sweatshirts and march on the White House. When the "angry mob" arrives at the White House, however, they form an orderly queue and register to vote. While I am not usually a staunch Eminem advocate, I have to give him props (sp!?!?) on his effort to mobilize his constituency. If you haven't seen the

video, it's worth googling.

Early results suggest that voter turnout was up somewhat this election. The advance polling numbers certainly gave me reason to hope that P-Diddy's "Vote or Die" campaign may have been just the kind of bitter pill that the young US electorate needed to swallow. There were real "youth" issues being decided in this election. On the question of Iraq; the working class, and African Americans are seriously over-represented among the military and therefore among the casualties. On the economy; the job losses that have plagued parts of the US are also allocated unequally against the working class and those who lack higher education. The next President will almost certainly appoint one - if not two or three - Supreme Court Justices, so another Bush White House could mean the overturning of Roe v. Wade and the end of a woman's right to choose, among other important legal issues. It's not like young people didn't have anything at stake!

At the end of the day, however, it looks like it wasn't enough to draw most young people into the polling booth! Exit polls indicate that 18-25 year olds made up less than 10% of the electorate this time around - about the same level of turnout as the 2000 election. As a general rule (though certainly not one without exception) young voters skew heavily towards the Democrats. There is good reason to believe that the young people who stayed home may have decided the election. ►

Though we may be quick to condemn our neighbours to the South, the fact of the matter is that we are not doing much better! Youth voter turnout in Canada is also dismally low. Political scientists now believe that this decline in turnout is not simply a reflection of what they used to call a "life cycle effect" (young people don't vote because they don't have much at stake, but as they get older, buy a house, have kids, get sick & need hospital care, etc... they develop an interest in politics and pick up the voting habit). There seems to be a more permanent disinterest in electoral politics. There is growing evidence that Canadians in the 25-34 age bracket aren't flocking to the polls either.

So I guess my real question is: What is going on? There are tons of theories about this being developed mostly by middle-aged, middle class academics. Most of them don't ring true to me, and I am wondering what you all think?

I think that this is the point in my article where I should say something really obnoxious to try to stir up a response, but I just can't bring myself to do it! Maybe no one else cares about this - which I guess would be an answer in itself... But I figure this is a bright, aware collection of people, and someone probably has an opinion about this!

I have to admit, I put my hopes in

Eminem for this US election. I truly believed that real pop culture - not one-night-only, MTV Rock the Vote pop culture - but a genuine movement from within youth culture, might motivate young people to turn a blind eye to the vastly flawed nature of electoral politics and act in their own interest. Maybe Eminem and P-Diddy don't have the cultural sway I thought they did... But I don't think that is what's going on. If it turns out that the polls and pundits in the weeks to come confirm the results of the exit polls, I guess I will have to go back to the drawing board.

Which leaves me wondering... If Eminem can't save democracy, then who can? ■

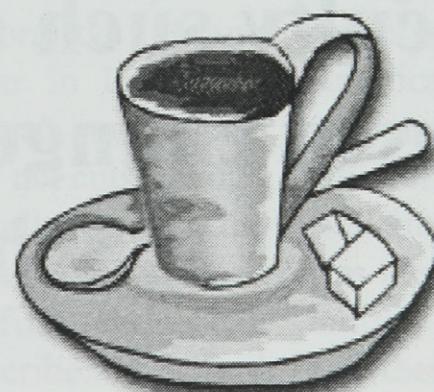
## Cooking the Books: Trust-tea

by Lindsey Miller (Law III)

I hereby convey to all law students, to the use of all tired and thirsty law students, this recipe...

Feeling like you don't have the three certainties? Is your life estate in a state of disorder? Is your feoffment missing some feoff? Do you feel like cestui que use is using you? Never fear - sit yourself down cy-pres and brew a cup or two of this delicious chai trust-tea.

1 black tea bag  
1 3-inch stick cinnamon  
2 cups milk  
2 tbsp. sugar or honey  
1 tsp. vanilla extract  
1/8 tsp. ginger  
1/8 tsp. cardamom or allspice  
1/8 tsp. nutmeg



Put tea and cinnamon stick into  $\frac{1}{2}$  cup of water in a small saucepan and bring to a boil. Remove from heat and let stand, covered, for 5 minutes. Remove the teabag and cinnamon stick. Add milk, sugar and 'seisin' with spices. Heat over medium heat until warmed through. Don't allow the mixture to come to a boil.

This makes enough for two generous mugs of chai trust-tea. Share your other mug with your tenant in common law property. If you haven't got one, equity's darling is always available.... ■

# DEAN'S TOWNHALL MEETING

MARDI LE 16 NOVEMBER,  
2004

2:30PM

## MOOT COURT

**The Dean will speak about concerns regarding the Law Faculty such as summer courses and the proposed changes by the Quebec Bar School.**

*SVP venez avec vos questions!*

# Grubbing for Riches?

by Adrian Lomaga (Law I)

Who's here for the money? Be honest. Are you trudging through all those damned readings, summarizing them, and then trying to make sense out of everything only to go to class and listen to the prof contradict everything you thought you understood because you know that when you graduate you can start work at a corporate firm with a six-figure salary in NYC? Maybe buy a nice little red convertible - a Z4 perhaps? Or will dining out with your high-society friends in your Armani suit do the trick?

Remember that personal statement we all wrote? What a joke, eh? It's no great feat to figure out what the faculty was looking for: good grades, integrity, well-roundedness, stamina, a feigned interest in your second language and the law, AND, most importantly, some sort of vision of doing good. If anybody wrote in their personal statement that they were

in it for wealth and power, I'll buy you a beer at the next coffeehouse. At least I'll know you'll enjoy it more than others, at least for the present time.

Why all this cynicism and outrage? Not that I have a grudge against the wealthy, but if money is what drives you, don't expect money to provide you with any sense of lasting satisfaction. What's the point of having a trillion dollars if you don't have any friends to enjoy it with, no spouse to share your life with, no time to appreciate life?

Call me an idealist, but when somebody tells you they don't want to practise in a particular field of law, even though that's where their passion lies, for the sole reason that it doesn't pay enough to fund the type of lifestyle they want to live, I can't help but feel sorry for them. How can you possibly believe that the key to your happiness lies in material

goods?

Pray tell, why is there such a thing as a mid-life crisis? Why is it, when you are in your thirties or forties or later, that you wake up and suddenly discover that everything you've done up to that point makes no sense whatsoever?

Not to place all my wrath on the money-grubbers, but the same holds true for any endeavour pursued with fanatical zeal when your happiness is the price paid for that success. What solace is it to be miserable but rich, or influential, or famous?

The bottom line is that it's not where you get in life, but rather how you get there that really matters. ■

# On Bush's (Second) Presidential Victory

by Joseph Adams (Law III)

Well if I were playing Risk, I would first try to win Indiana and Ohio, then move a sizable regiment to Minnesota in order to drive through North Dakota, Montana, and Idaho. But I don't believe it's my turn.

Displacing my disappointment over the dearth of good, partisan laments in the media, two dominant messages emerge from the post-election analysis: that the Bush victory was produced by voters citing 'moral values' as their driving motivation, and that the Democrats must somehow (re)define themselves by 'going into the wilderness.'

First, Republicans can hardly claim a monopoly on morality. Many objections to the war in Iraq were rooted deeply in moral convictions. As were protests over tax cuts, though perhaps less dramatically. In fact, the widespread, visceral opposition Bush generated in his first term can probably best be described as 'moral outrage.' As New York Times columnist David Brooks put it, we can not reduce America to bible thumpers vs. godless hedonists. We hope.

Second, the only people hoping the Democrats 'go into the wilderness' are the Republicans. The Democrats will be fine as long as they tap the healthy vein of conservatism that runs

throughout the US. Make the conservative Democrat, if not the new American archetype, then at least a welcome member of the party. Make the Democratic Party the party that explains that, in the same way that it was illegitimate to take a nation into a military offensive on false pretences and then insist that a 'war president' should not be replaced, it is illegitimate to side with big business and then profess the 'moral values' people cling to as a result of being exploited. Make it the party of intelligent government. And keep rolling those sixes. ■

# To Marcelo Garcia R. (Law II) about the article "Grasping Quebec Nationalism: A Starting Point"

by Kara Morris (Law I)

You're right. The term "French Canadian" or "Canadien Français" does not mean the same thing as "Québécois." However, this difference in meaning does not negate the term "French Canadian." If all French-speaking Canadians lived in Quebec, then "Québécois" would always be the correct term. "French Canadian" designates French-speaking Canadians in and outside Québec's borders. "Québécois" leaves out Franco-Ontarians, Acadians, Franco-Manitobans, and any other French-speaking Canadian community outside of Québec. Each of these communities has its own history, literature, language variations, and struggle to maintain its distinctiveness. Is there a place for these other French-speaking Canadian communities in the Québec nationalist vision? ■

## How is First Year? Would You Stop Asking Me That!!

by Kara Morris (Law I)

First-years: how many times, when someone learns you're in Law I, asks that dreaded question, "How do you like it so far?"

Upper-years: how many times have you asked that question since September? Even the Quid joined the party two weeks ago with a half-page advertisement asking first years to submit their thoughts on the subject.

It's unclear whether upper-years ask this question out of real concern for the first-year students, or just to carry on a tradition passed down by generations of law students. Sometimes it seems like people ask expecting horrors - like slowing down at the scene of an accident to see how much blood is on the road. Like the thoughtless exchange of "How are you? I'm fine" between acquaintances, the "How do you like law school?" drama plays out in

monotone.

Maybe I'm not being fair. It can be hard to start a conversation with someone you've never met before. The only thing we all have in common is McGill Law.

To answer how first year is "going," I can't speak for my whole class. So far, the biggest challenge for me has been prioritizing. Instructions arrive from every direction, and time is as coveted as crude at \$50 a barrel. The message I get from the faculty is this: "If you go to all your classes, do all the readings, join the clubs, go to at least four extra lectures a week, get drunk at coffeehouse and write for the Quid, you've fulfilled your basic obligations to the faculty and you can go home to shower and take a nap." Alright, maybe no one said it in those words exactly, but with so many opportunities to

"participate in the life of the faculty," law school may have succeeded in exhausting the first year class (or maybe just me) in ten short weeks. If we're not exhausted then at least we're confused. Can you explain your acronyms please! How is a first-year supposed to know that OCI means "on campus interview," or that JICP is anything other than dreaded? (It actually means "Judicial Institutions and Civil Procedure." Who'd have guessed?)

In the end, we will grow up to continue the tradition next year, asking once again "You're in first year? How do you like it so far?" in September 2005. If you're stuck for conversation with a first-year, from now on try asking him or her what they think about last week's Quid article. When it comes to that part of faculty life, we know the drill. ■

## The Christ Ethic Nailed Me

by Sam Oliver Hall (Law II)

Have you ever looked your flesh and blood in the eye, ready to kill?

Hating yourself, as mirrored through your brother, is a remarkable thing.

I've only wanted to kill once.

Funny that the object of my hate would

be my brother. And embarrassing. How can one have such tolerance for a stranger? Such tolerance for an evening provocateur, even when a physical barrier is crossed? And yet lunge with feral instinct at a loved one. It's the only time in my adult life that I've felt ashamed.

My shame, as instant as my first crashing blow, let him land a grisly punch of equal animal intensity. My self-serving concession.

The Christ ethic says: "Love thy neighbour as thyself." A temporary self-loathing can really bring out the worst in people. ■

# Reclaim Your Campus Week: A Follow Up

by Daniel Friedlaender: Arts IV SSMU: VP Community and Government & Andrés Drew : Law II: LSA VP External. Chair of SSMU Community and Government Committee.

The Reclaim Your Campus Coalition is, like the Coalition for Action on Food Services (CAFS), a group of concerned students and student groups who have come together in protest and frustration at these recent developments:

- the potential deregulation of international tuition
- the recent cuts and restructuring of student financial aid by the Quebec government
- the talk of a possible elimination of the Quebec tuition freeze

The purpose of this Coalition is to highlight to students the infringements on their rights and interests by the government as well as the administration, and to furthermore act as a building block in the larger FEUQ campaign and mobilization on November 10th, 2004, which will focus specifically on the potential deregulation of international student tuition and cuts to financial aid.

Reclaim Your Campus Week is meant to energize our students and get them involved. The idea of a week-long multi-themed event that proposes a series of events aimed at educating students on these issues and stimulating discussion, involvement and action.

These events included:

- " Inviting Pauline Marois (Official Opposition Education Critic) who spoke about the deregulation of international tuition and the cuts to financial aid.
- " Pub Night at Gerts: Screening movie about student debt, entitled *My Student Loan*. Also expect discussions about CAFS and turnitin.com.
- " Panel discussion on education and financial aid and international student fees.
- " Party on Lower Field. And march to the administration building.

The Community and Government Committee is not simply concerned with mobilization and protesting, rather, this year we are interested in analyzing the problems that have manifested themselves in the higher education system over the last decade.

As such, the Community and Government Committee is studying different ways of financing the higher education system. We feel that there must be a more equitable and efficient way of funding the higher education system and we are looking at alternative models that operate in other jurisdictions. We are however, unanimous in opposing the fact that additional costs to funding the university system are currently falling exclusively on the poor and the disenfranchised.

This committee currently has four Law student members. They are, Andres Drew, Nick Peters, Micheal Rapps and Andres Drew. We understand that the Faculty of Law has entered into a dialogue over funding and we thus invite all law students to make proposals about how to improve the funding of the Quebec higher education system.

## Here is the Policy Question:

*If you were Minister of Education, what would you do? How would you fix Quebec's education system?*

The SSMU Community and Government Committee invites you to submit your ideas in a contest that will put the emphasis on innovative ideas as well as feasibility and well thought out solutions to the current problems that plague the higher education system in Quebec. How would you fix the higher education system?

Please send your proposal to [external@ssmu.mcgill.ca](mailto:external@ssmu.mcgill.ca) or go to [www.ssmu.ca/fix](http://www.ssmu.ca/fix) for more details. Prizes include certificates, literary awards and a dinner for two. ■

# Traditional Legal Thoughts In Korea - Part 1

by Jay Choi (Law II)

*Editor's note: This article appeared last week without proper chinese characters and footnotes due to layout errors. We apologize for the mistake and we reprint the article in its entirety.*

*This is the fourth piece in the Asian Pacific Law Association McGill (APLAM) series of articles pertaining to Asian legal systems. For more information about APLAM please e-mail Marcelo Garcia (marcelo.garcia@elf.mcgill.ca) or visit us online at: www.law.mcgill.ca/students/clubs/aplam.*

**I**t is largely undisputed today that the current law of Korea is a product of legal transplantation. Since Korea first came into contact with the Western law in the 1880's, its legal system underwent rapid changes of "modernization" and "westernization" imposed by the Japanese occupation. As a result, we understand today's Korean legal system as one belonging to the civilian tradition along with China and Japan (see previous article for a short historical account on the South Korean legal evolution).

It is often asserted that traditional legal concepts are of no particular use in a modernized and westernized system, assuming a certain discontinuity between tradition and modernity. This is however to ignore the different faces of the law: in addition to its institutional dimension, the law possesses a spiritual and philosophical dimension that is worth being explored. The law, as an effort to symbolize human interactions as governed by norms, is more than a collection of constitutions and statutes.

The law of Korea may have been influenced by the German BGB, the Japanese customs of adjudication and administration, or the Anglo-Saxon commercial codes; but it does not make the Korean legal system a Western one. Once we perceive the law from its spiritual and philosophical dimension,

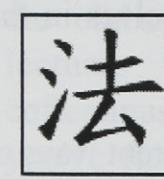
departing from a strictly positivistic view, we can cast doubt on the idea that the law, as understood in Korea, has changed overnight with the adoption of Western legal customs.

Traditional legal thoughts of Korea are not only relevant for legal historians but to all Korean jurists who are interested in the origins of today's Korean law, be it state-sponsored, family based or existing in churches and temples. Interestingly, after decades of earnest efforts to "catch up" with the Western nations through globalization and "modernization", many Koreans now come to realize that some of the answers to their juridical questions may come from their own traditions.

In this article, we wish to explore the spiritual and philosophical dimension of the Korean law by presenting a brief overlook at the traditional legal thoughts as they proliferated in ancient, medieval and modern periods.

## I - Ancient Thoughts of Law

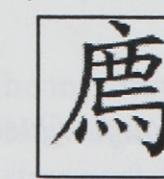
### A. The Etymological Origin of the Law



"Law"

Scholars recognize today the existence of an East Asian jus commune. This is characterized by the fact that East Asians all use the same Chinese character to refer to the idea of "law". Taking an etymological interest in this, we remark that it is in fact a composed character that is made up of three other parts: water, unicorn and going away.

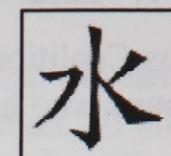
#### 1) "Unicorn" for judgement: Ancient



"Unicorn"

Chinese courts are said to have used Hsieh's (unicorns), an imaginary and mystical animal that systematically stroke the guilty party with its corn, to convict people. The unicorn here seems to represent the ability of discernment and decision-making.<sup>3</sup>

#### 2) "Water" for equity: discernment is



"Water"

made according to a certain set of values. In this case we want to judge like water flows, that is to say in the most natural way possible.

It is my speculation that this "natural" form of justice translates into equity.



3) "Removal" for sanction: once the judgement is rendered according to societal values, "Removal" and the discernment made between good and evil, the unrighteous is to be purged.

One could therefore come to the conclusion that the character "law" etymologically means "to judge equitably like water flowing as to remove what is unrighteous".<sup>4</sup>

That having been said, some historians assert that Korea and Japan had separate, more "indigenous" words for "law" before they adopted the Chinese word fa. During the Silla dynasty (BC 57 - AD 935), the Korean word bon was used but it is unknown as to how it represented "law" and when this specific meaning fell into desuetude. Bon somehow evolved to mean in contemporary Korean an "ideal", something close to the "Ideal Type" of Weber. Before they adopted Chinese customs, the Japanese on the other hand used the word nori, which refers to Shamanistic behaviours. Given the cultural similarities between Japan and Korea, one can speculate that the ancient meaning of bon was closely linked to religion and spirituality.<sup>5</sup>

The concept of East Asian law is therefore far from being secular. Although there is no evidence of a "god-made" law in China, like Hammurabi's or Moses', we see that the origin of law in Korea had some religious character. The Shamanistic laws probably became more "secular" as they came into contact with Confucianism.<sup>6</sup> ▶

## B. Korea's Founding Mythology: the Myth of Tangun

The following summary by Tae-Hung Ha and Grafton Mintz gives us some hints about the primitive legal concepts that are distinctively Korean. The oldest existing record of this foundation myth appears in the *Samguk Yusa*, a 13th-century collection of legends and stories:<sup>7</sup>

In ancient times, Hwanung, the son of Hwanin, desired to descend from Heaven and to live amongst men. His father, realizing his son's intention, chose Taebaek Mountain among three great mountains on which to descend, and saw that mankind would greatly benefit.

Taking with him three thousand of his followers, Hwanung descended upon the peak of Teabek beneath the Sacred Sandlewood Tree. That area was called the land of God and he was known as Hwanung Chonwang [Heavenly King]. Together with his ministers of wind, rain, and cloud, Hwanung instructed mankind about agriculture, preservation of life, curing of disease, punishment, and the difference between right and wrong, in all some three hundred and sixty kinds of work.

At that time, there was a bear and a tiger that lived together in a cave. They prayed incessantly to Hwanung saying, "Please transform us into men." Then Hwanung gave them some mugwort and twenty pieces of garlic and said, "If you eat this and do not expose yourself to daylight for one hundred days, you will become a human being." At the end of twenty-one days, the bear became a woman. The tiger, unable to endure the trial, did not become a man.

As there was no one with whom the woman Ungnyo [Bear-woman] could marry, she constantly visited the base of the Sacred Sandlewood Tree to pray for a child. Hwanung gave into her prayers and decided to marry her. A son was born who

was called Tan'gun Wang'gom. In the fiftieth [sic] year of the Emperor Yao,<sup>8</sup> Tan'gun established a city at Pyongyang and called the nation Choson. He later moved this city to Asadal on Paeg'ak Mountain, which was also known as Kunghol Mountain. He governed [there] for 1,500 years.

## C. Elements of Legal Thoughts

There are several legal elements that are conceived in the Tangun mythology. Many of these "ideals" still strongly persist and continue to exert significant normative influence on the daily behaviours of Koreans.

The humanitarian ideal of Hongik Ingan, "a man who gives benefit to human kind", is captured in the idea that Hwanin descended from heaven "[seeing] that mankind would greatly benefit" from it. It forms the ideal type of Korean existence that is to be beneficial towards others as opposed to egoistic. The Declaration of the Fundamental Educational Principles of Korea in 1949 and the second article of the Education Law (1951) are examples where Hongik Ingan is entrenched as the fundamental basis for education:

"Education shall aim to enable every citizen to lead a life worthy of humankind and contribute to the development of a democratic state and the realization of an ideal of co-prosperity by ensuring that one builds character and is equipped with independent abilities for living and necessary qualities as a democratic citizen under the humanitarian ideal [Hongik Ingan]." ■

<sup>1</sup> I would like to thank Phil Alma for having reviewed and commented on my article. For a deeper analysis, see Chongko Choi, "Traditional Legal Thoughts in Korea" (2003) 3 J. Korean L. 75.

<sup>2</sup> The word "law" is the abbreviation of which itself is composed of: (1) water, (2) unicorn, and (3) leave.

<sup>3</sup> The description of this supernatural animal

varies depending on authors: it is sometimes represented as a sheep with a single horn, a cow or even a lion. This animal was pictured in various ways throughout history but still stands as the symbol of justice in China, Korea and Japan. It could be interesting to see how this animal relates to the Western unicorn, which was known for its medicinal properties in the Ancient and Medieval legends.

<sup>4</sup> Phil Alma offers an alternative explanation: the right side of the character representing "leave" or "go" was used in its early sense of tight-lidded container and acted phonetically to express envelop/hold securely. Thus when combined with water (left-side), the character meant tight-lidded leak-proof container holding water. This was later applied figuratively to the law, which similarly contains/constrains human behaviour.

<sup>5</sup> Phil Alma notes that the law in 3rd century Japan (until the advent of a Chinese-style codification) was pretty much the will of the gods as interpreted by Shinto priests.

<sup>6</sup> This is of course assuming that Confucianism is a mere system of ethics and statesmanship that is qualified a-religious for the absence of an anthropomorphic Divine. Despite the strong influence of Confucianism and Buddhism, there are today adherents of a Shamanistic religion that worships Tangun, the founder of Korea. Korea offers today a very pluralistic society where Shamanism, Confucianism, Buddhism and Christianity co-exist.

<sup>7</sup> Samguk Yusa is a collection of legends, folktales, and historical accounts relating to the so-called Three Kingdoms of Korea (Goguryeo [with respect to my Chinese colleagues], Baekje and Silla), as well as to other periods and states before, during, and after the Three Kingdoms period. The text was written in Classical Chinese (as used in writing by literate Koreans at that time) by the Buddhist monk Ilyon (1206-1289) at the end of the 13th century, a century after the Samguk Sagi. Unlike the more factually-oriented Samguk Sagi, Ilyon focused more on the various folklores, legends, and biographies. Many of the founding legends of the various kingdoms in Korean history are recorded in this book. Ilyon covered the legends of all the kingdoms of Korean nation (from Wikipedia). This is a myth related to primitive concepts of taboo and totemism: perhaps was there an important struggle between the Bear tribe and the Tiger tribe?

<sup>8</sup> One of the five legendary Chinese Emperors who were morally perfect sage-kings.

# Launch the Transsystemia Lounge Design Competition

by Sylvia Boss (Law II)

Until now, I hadn't really figured out what "Launch the Lounge" was. I had only skimmed the Notice announcement, and because I have class during Coffee House, I missed the official launch. Great Idea! Congrats to you, Team, for getting it off the ground, a feat which feels like it would have been unimaginable last year.

Are there ways students can input on the projected look/feel of the lounge without being on the committee? There's no obvious reason the two should go together. Of course if one knew in advance that ones input would only be canvassed if one were part of the committee, then that might affect if one actually applied to the committee.

Is there a vision for what the Lounge might be like? It would be nice if we could work with several students' ideas for what a progressive (is that a password?) "law school lounge" might look/feel like. For example, is there any space for Transsystemia as a design concept? Why not put it out there, like the competition for the Human Rights Museum? "Design a 3D basement embodiment of T/S"!!!

Because quaint as it may be, I'm not bankrolling, nor do I feel like sitting daily in (whoever bankrolls it), a mahogany-panelled room with moose antlers sticking out, or anything vaguely reminiscent of an "Old School" law environment which is just so not hot and so not the direction McGill Law stands for (at the moment anyway).

Some of the issues I know some people felt strongly about last year, myself included, were a kettle and a common washing-up sink. And then there's that horribly gaudy yellow...

It would be nice to think that these aspects amongst possibly newer ones will be considered early on in the design, and not as afterthoughts that our successors will haggle over in a n o t h e r "e l e c t i o n cycle".

Perhaps I'm guilty of not having read the Quid too

closely recently (I couldn't locate this week's paper copy, and it's not online), but if not, it'd be great to have the options the LSA is thinking about discussed publicly (there or in any other accessible forum). Hurrah for open democracy!

Here's to the "Transsystemia Lounge Design Competition"...

Take care, folks,  
Thanks for your energy.  
And once again,  
Respect for getting this off the ground,

Sylvia ■

**Your career is on track.  
Keep it that way.**



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# Senryus frigorifiants

par Julien Morissette (Law I)

**L**e senryu est une forme de poésie japonaise similaire au haïku datant du 18e siècle. Il se rapporte à la vie quotidienne et comporte souvent une critique. Contrairement au haïku, ses 17 syllabes peuvent être réparties au bon plaisir de l'auteur. En voici quelques uns, à vous d'en extraire le message :

Gelés en droit des biens  
Douze degrés en salle 101  
Chauffage vaut rien

A cold draft  
Not beer, ice chilled air  
Do bundle up  
It's the Frosty Moot

Réception faste dans l'Atrium

RSVP

Grande tenue d'hiver

Some savings on heating

Congealed minds

Bye-bye alumni donations

Classe adaptée

Claviers surdimensionnés

Mitaines

Pouvoir taper

Écrits en l'honneur de tous et toutes qui gèlent avec moi.

■

**The Latin American Law Students' Association (LALSA)**

Would like to thank the Consul General of Chile for its generous contribution to our Coffee House. We would also like to extend our sincere appreciation to everyone else who contributed to make this event a great success.

**If you were Minister of Education, What would you do? How would you fix Quebec's education system?**

The SSMU Community and Government committee invites you to submit your ideas in a contest that will put the emphasis on innovative ideas as well as feasibility and well thought out solutions to the current problems. How would you fix the education system?

Please send your proposal to [external@ssmu.mcgill.ca](mailto:external@ssmu.mcgill.ca) or go to [www.ssmu.ca/fix](http://www.ssmu.ca/fix) for more details. Prizes include certificates, literary awards and a dinner or two.

CHASSE VS BRAZAO:  
MORE INTELLECTUAL DEBATE  
THIS WEEK IN THE QUID

